

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

SHERRY SALAMONE,	)	
	)	
Plaintiff,	)	
	)	
v.	)	<b>Case No. 16-cv-9489</b>
	)	
UPSTREAM INVESTMENT PARTNERS,	)	<b>Honorable Ronald A. Guzman</b>
LLC, a limited liability Company,	)	
	)	
Defendant.	)	
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UPSTREAM INVESTMENT PARTNERS,	)	
	)	
Counter- Plaintiff,	)	
	)	
v.	)	
	)	
SHERRY SALAMONE,	)	
	)	
Counter-Defendant.	)	

**DEFENDANT'S MOTION TO DISMISS FOR LACK OF SUBJECT MATTER  
JURISDICTION OR FOR SUMMARY JUDGMENT**

Defendant, Upstream Investment Partners, LLC ("UIP"), through its attorneys Owens & Laughlin LLC, and for Defendant's Motion to Dismiss for Lack of Subject Matter Jurisdiction or for Summary Judgment, states as follows:

1. Plaintiff alleges that as a former employee of Defendant, she is allegedly owed unpaid overtime and wages from Defendant. Plaintiff filed her complaint on October 4, 2016. In her complaint, Plaintiff alleges violations of the U.S. Fair Labor Standards Act, 29 U.S.C. 201, *et seq.* ("FLSA"), Illinois Minimum Wage Law, 805 ILCS 105, *et seq.* ("IMWL"), and the Illinois Wage Payment and Collection Act, 820 ILCS 115/1, *et seq.* ("IWPCA").

2. Subject jurisdiction before this Honorable Court is predicated exclusively upon federal question jurisdiction solely because of Plaintiff's FLSA claim.

3. The Court should dismiss Plaintiff's FLSA claim pursuant to FRCP 12(b)(1) for lack of subject matter jurisdiction because Plaintiff's employment was exempt from the FLSA overtime provisions because Plaintiff was an administrative employee as defined by 29 U.S.C. 213 and 29 CFR 200.

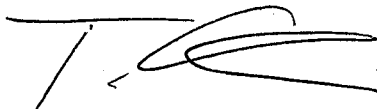
4. Alternatively, the Court should grant:

(a) Summary judgment under FRCP Rule 56 because Plaintiff's employment was exempt from the FLSA overtime provisions because Plaintiff was an administrative employee as defined by 29 U.S.C. 213 and 29 CFR 200 because there are no material issues of fact regarding said issue;

(b) Partial summary judgment under FRCP because significant portions of Plaintiff's claims are time-barred the applicable statutes of limitation because there are no material issues of fact regarding said issues.

WHEREFORE, Defendant requests that this honorable Court enter an order dismissing the instant action for lack of subject matter jurisdiction or granting summary judgment, together with any and all of the relief that this Court deems just and proper.

Respectfully submitted,

  
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Troy C. Owens

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